IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 7366 of 2007(B)

PETITIONER:

K.P.LUKA, S/O.PATHROSE,
AGED 60 YEARS, KUNNATHKALAYATHOLIL,
MARANGATTUPALLY KARA, ELAYACKADU VILLAGE,
MEENACHIL TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.BIJU ABRAHAM.

RESPONDENTS:
----

1. **THE SALE TAX OFFICER,**
   COMMERCIAL TAX OFFICE, PALA.

2. **DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, KOLLAM.

3. **THE DEPUTY TAHSILDAR,**
   REVENUE RECOVERY, PALA.

4. **THE VILLAGE OFFICER, ELAYACKADU**
   VILLAGE, MEENACHIL TALUK, KOTTAYAM DISTRICT.

BY SR. GOVT. PLEADER SRI. MOHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.7366/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE PERMIT NO. 34/2000-2001 DTD. 19/04/2000 OF THE R.1.

EXT.P.2: COPY OF THE ORDER EFFECTING DELIVERY OF THE ROOM IN WHICH PETITIONER HAD CONDUCTING BUSINESS AS PER ORDER IN E.P. 63/2000 IN O.S. 667/97 ON THE FILES OF MUNSIFF COURT, PALA.

EXT.P.3: COPY OF THE ASSESSMENT ORDER DTD. 20/01/2006.

EXT.P.4: COPY OF THE DEMAND NOTICE DTD. 01/08/2006 ISSUED BY THE R.3.

EXT.P.5: COPY OF THE ORDER OF THE ATTACHMENT ISSUED BY R.3. TO THE PEITIONER DTD. 18/01/2002.

EXT.P.6: COPY OF THE APPEAL DTD. 02/02/2007 SUBMITTED BY THE PETITIONER TO THE R.2. WITH A PETITION FOR EARLY HEARING OF THE APPEAL.

EXT.P.7: COPY OF THE PETITION FOR STAY DTD. 22/02/2007.

EXT.P.8: COPY OF THE ORDER DTD. 23/02/2007 OF THE R.2.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR,J.

WP(C)NO.7366 OF 2007-B

Judgment

The petitioner challenges Ext.P8 interim order passed by the 2nd respondent. It is submitted that the order has been passed without considering the merits of the case and without hearing him, though, it may appear from the order that the petitioner's representative appeared. It is also submitted that the condition imposed for granting stay is unduly harsh and absolute stay may be granted.

2. I heard the learned Government Pleader also. From Ext.P2, it would prima facie appear that the petitioner has been evicted from his business premises by the end of July 2001. So, he could have done business only for about three months. Therefore, I feel that the interim order should be granted on more liberal terms. The petitioner may pay Rs.1 lakh within one month from today and furnish security for the balance amount due towards sales tax for the year 2001-02. In that event, further proceedings pursuant to Ext.P3 order will be kept in abeyance till the disposal of Ext.P6 appeal.

The Writ Petition is disposed of as above.

06.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

sta